

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1232 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgement?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

AMRUTLAL MANILAL GHANCHI

Versus

GEB, THROUGH CHAIRMAN

Appearance:

MR MURALI N DEVNANI for Petitioner

MR KM PATEL for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 13/11/2000

ORAL JUDGEMENT

Rule. By consent of the parties, the matter is
taken up for final hearing today.

Both the sides have fairly conceded that the
issue is covered by the order dated 24.8.2000 passed in

Special Civil Application No.8311 of 1999. In the aforesaid matter, the following order was passed by this Court :-

"... Rule. As Shri N.K. Majmudar has already put appearance for the respondents, office needs not to issue notice of the Rule to the respondent. With the consent of learned counsel for the parties, the matter is taken up for hearing today.

One of the grievances made by the learned counsel for the petitioner against the order of the Board dated 25.2.2000, which is under challenge in the petition that it is cryptic order. In his submission show cause notice was given to the petitioner and the petitioner replied to show cause notice but reply was not considered and this non-speaking order is made.

Learned counsel for the respondent fairly conceded that reference to the reply to the show cause notice is not there in the impugned order. However, Shri Majmudar submits that the order has been passed after giving show cause notice to the petitioner.

I have given my thoughtful consideration to the submissions made by the learned counsel for the parties.

It is true that show cause notice has been given but it is only an empty formality which has been observed in the present case by the respondents. It is a matter where under the impugned order the benefits of the revised pay scale etc. given to the petitioner have been taken back after 17 years. The order results in civil consequences and as such, principles of natural justice are to be followed. It is not that merely giving of the show cause notice fulfils all requisites of principles of natural justice. The reply filed to the show cause notice has to be considered and the order may not be as detailed as what the judicial order is, but reasons are to

be recorded after considering the reply to the show cause notice in the order. Precisely that has not been done in the present case. Only on this ground, this petition deserves to be allowed and the order dated 25.2.2000 is hereby quashed and set aside. However this decision will not come in the way of respondents to pass fresh order after giving notice and opportunity of hearing to the petitioner. Rule is made absolute accordingly with no order as to costs"

In view of the aforesaid facts and circumstances of the case, the petition is required to be allowed and the order in question is set aside. However, it is clarified that it will be open for the respondent to pass fresh orders after giving proper opportunity to the other side and after complying with the principles of natural justice, the authority can pass a fresh order.

Subject to the aforesaid, the petition is allowed. Rule is made absolute to the aforesaid extent. No costs.

13th November, 2000 (P.B. Majmudar, J.)

(apj)